

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

LUMBERMENS MUTUAL CASUALTY CO.,

Defendant.  
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**REPORT AND  
RECOMMENDATION**  
CV 05-4903 (LDW)(ARL)

**LINDSAY, Magistrate Judge:**

By order dated September 25, 2006, the plaintiff was directed to show cause in writing by October 17, 2006 why this action should not be dismissed for failure to prosecute. See Order to Show Cause, dated September 25, 2006. Plaintiff was warned that the failure to comply with that order would lead to a recommendation to District Judge Wexler that this case be dismissed for failure to prosecute. To date, the plaintiff has not responded. Accordingly, the undersigned recommends that the case be dismissed for failure to prosecute.

A copy of the Report and Recommendation is being sent by the Court to counsel for the plaintiff. Counsel for the plaintiff is directed to serve a copy of the report and recommendation on the defendant. Any objections to this Report and Recommendation must be filed with the Clerk of the Court with a courtesy copy to the undersigned within 10 days of service. Failure to file objections within this period waives the right to appeal the District Court's Order. *See* 28 U.S.C. §636 (b) (1); Fed. R. Civ. P. 72; *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York  
January 22, 2007

\_\_\_\_\_/s/\_\_\_\_\_  
ARLENE R. LINDSAY  
United States Magistrate Judge